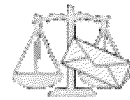




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ESTTA Tracking number: **ESTTA489785**Filing date: **08/17/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Keating Dental Arts, Inc.		
Entity	Corporation	Citizenship	California
Address	16881 Hale Ave Irvine, CA 92606 UNITED STATES		

Attorney information	Jeffrey L. Van Hoosear KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@knobbe.com Phone:949-760-0404
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Registration Subject to Cancellation

Registration No	3739663	Registration date	01/19/2010
Registrant	James R. Glidewell, Dental Ceramic, Inc. Professional Services 4141 MacArthur Blvd. Newport Beach, CA 92660 UNITED STATES		

Goods/Services Subject to Cancellation

Class 010. First Use: 2009/06/06 First Use In Commerce: 2009/06/06 All goods and services in the class are cancelled, namely: Dental bridges; Dental caps; Dental crowns; Dental inlays; Dental onlays; Dental prostheses

Grounds for Cancellation

Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)

Related Proceedings	91202891, 91201389
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Attachments	2012-08-17 Petition to Cancel - KDENT.001N.PDF (4 pages)(118730 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/rym/
Name	Rustin Mangum
Date	08/17/2012

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KDENT.001N

TTAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Keating Dental Arts, Inc.,

Petitioner,

v.

James R. Glidewell, Dental Ceramic, Inc.,

DBA Glidewell Laboratories,

Respondent.

Cancellation No: _____

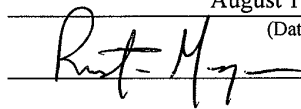
Mark: BRUXZIR

Reg. No.: 3,739,663

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their web site located at <http://esta.uspto.gov> on

August 17, 2012

(Date)



PETITION FOR CANCELLATION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Pursuant to 15 U.S.C. §§ 1064, 1068, 37 C.F.R. § 2.111(b) and TBMP § 309.03(d), Petitioner, Keating Dental Arts, Inc., located and doing business at 16881 Hale Ave, Irvine, CA 92606 (hereinafter referred to as "Petitioner"), believes that it is and will be damaged by U.S. Trademark Registration No. 3,739,663 for the mark BRUXZIR, currently owned by James R. Glidewell, Dental Ceramic, Inc., doing business as Glidewell Laboratories, a California corporation, located at 4141 MacArthur Blvd., Newport Beach, CA 92660 (hereinafter referred to as "Respondent"), and hereby petitions to cancel said U.S. Trademark Registration No. 3,739,663 (hereinafter referred to as the "Registration") as described as follows:

Mark:	BRUXZIR
Goods:	Dental bridges; Dental caps; Dental crowns; Dental inlays; Dental onlays; Dental prostheses in Class 10
Filed:	June 17, 2009
Registered:	January 19, 2010
First Use Date:	June 6, 2009

As grounds for cancellation, it is alleged that:

1. Petitioner and Respondent are both in the field of providing dental devices.
2. Since at least as early as 2002, Petitioner has been involved in the manufacture and sale of dental devices, including dental bridges and dental crowns.
3. Respondent's mark BRUXZIR is the phonetic equivalent of the generic and/or merely descriptive term "bruxer." The term "bruxer" is used to reference a "bruxer crown." "Bruxer crowns" are used by people who suffer from bruxism – the grinding of teeth. Such people are known in the dental industry as "bruxers." Thus, the mark BRUXZIR, which is phonetic equivalent of the generic and/or merely descriptive term "bruxer," merely connotes or describes a type of crown for the people who grind their teeth.
4. Respondent's mark BRUXZIR, which is the phonetic equivalent of the term "bruxer," immediately describes a function, feature or characteristic of the goods manufactured and sold by Respondent.
5. Respondent's mark BRUXZIR is comprised of the phonetic equivalent of the merely descriptive term "bruxer" and has not achieved a secondary meaning. Thus, the mark BRUXZIR is merely descriptive of the goods set forth in Respondent's Registration, has not achieved a secondary meaning and is therefore not entitled to registration pursuant to section 2(e)(1) of the Lanham Act, 15 U.S.C. § 1052(e)(1).
6. Respondent's mark BRUXZIR is integral to the accurate and efficient description of the products in the dental industry, and Respondent's Registration will impair Petitioner's right to use the term "bruxer" descriptively. Petitioner will therefore be damaged by the inability to use the term "bruxer" on goods that are similar to those listed in the Registration.

Petitioner reserves the right to amend this Petition to allege other claims in the event discovery of other information indicates they are appropriate.

WHEREFORE, Petitioner prays that U.S. Registration No. 3,739,663 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

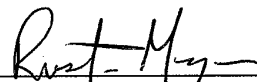
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 17, 2012

By: _____



Lynda J. Zadra-Symes
Jeffrey L. Van Hoosear
Rustin Magnum
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
efiling@kmob.com
Attorneys for Petitioner, Keating Dental Arts, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITION FOR CANCELLATION** upon Respondent by depositing one copy thereof in the United States Mail, first-class postage prepaid, on August 17, 2012, addressed as follows:

Keith D. Allred
James R. Glidewell, Dental Ceramic, Inc.
4141 Macarthur Blvd
Newport Beach, CA 92660-2015



Takeko Yoshioka-Moua

13817730